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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,501	03/12/2004	David R. Myles	DET1932	6395

34356 7590 03/29/2005

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JACKSONVILLE, FL 32216

EXAMINER
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GREEN, BRIAN

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/798,501

**Applicant(s)**

MYLES, DAVID R.

**Examiner**

Brian K. Green

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,10-13 and 15 is/are rejected.
- 7) ☒ Claim(s) 3,9 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### *Claim Objections*

Claims 3,9, and 14 are objected to because of the following informalities: In claims 3,9, and 14, line 5, "said central member" should apparently be "said anchor member" since there is no antecedent basis for "said central member". Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,4-8,10-13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orlando (U.S. Patent No. 3,148,856) in view of Drexler (U.S. Patent No. 3,477,161).

Orlando shows in figure 1 a vehicle alert kit comprising at least one base member (10) having a substantially planar bottom surface (the planar surface directly above the element 17) for resting on a surface, the at least one base member having a centrally disposed axis traversing therethrough and further having a threaded opening (21) centered about the axis, means for fastening (14) the at least one base member to a surface so that the at least one base member can be maintained at a substantially secure position, an elongated support member (20) having a lower end portion threadably (see column 2, lines 11-12) attachable to a select one of the at least one base member, the elongated support member extending substantially vertically and upwardly from the at least one base member to a predetermined height, the elongated support member including a receiving portion (the portion of 20 that receives the flag) extending substantially

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vertically along a length thereof, and a flag (25) having indicia printed thereon and including an edge portion that engages the receiving portion of the elongated support member. Orlando does not disclose making the edge portion of the flag positionable within the receiving portion.

Drexler shows in figures 1,3, and 4 a flag that includes an elongated support member (14) that includes a receiving portion (31 or 32) and a flag (12) that includes an edge portion (the edge portion of the flag which is received within the receiving portion 31 or 32, see figures 2 or 3) which is received within the receiving portion in a substantially vertical direction, see column 2, lines 68-70 and column 3, lines 13-17. The bottom surface of the receiving portion is considered to be either the surface of the receiving portion which the edge portion engages to stop the edge portion from sliding down any further or the inner surface of the receiving portion (31,32) which engages the edge portion. In view of the teachings of Drexler it would have been obvious to one in the art to modify Orlando by providing the edge portion of the flag positionable within the receiving portion since this would allow the flag to be attached to and removed from the elongated support in a faster and easier manner and would attach the flag to the elongated support in a more secure manner. In regard to claims 2,8, and 13, Orlando discloses that the fastening means (14) is a magnet. In regard to claims 4,7, and 12, Drexler shows in figure 3 that the receiving portion (31) is integral with the support member and extends outwardly therefrom, the receiving member having a groove for allowing the flag to be selectively positioned along a length thereof. In regard to claims 5,10, and 15, Drexler shows in figures 3 and 4 that the flag extends outwardly and away from the support member when the edge portion is disposed within the receiving portion. In regard to claims 6,11, and 12, Drexler shows in figures 3 and 4 that the

receiving portion comprises a plurality of arcuate portions integral with the support member and converging outwardly therefrom.

Claims 1,2, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orlando (U.S. Patent No. 3,148,856) in view of Keats (U.S. Patent No. 3,119,370).

Orlando shows in figure 1 a vehicle alert kit comprising at least one base member (10) having a substantially planar bottom surface (the planar surface directly above the element 17) for resting on a surface, the at least one base member having a centrally disposed axis traversing therethrough and further having a threaded opening (21) centered about the axis, means for fastening (14) the at least one base member to a surface so that the at least one base member can be maintained at a substantially secure position, an elongated support member (20) having a lower end portion threadably (see column 2, lines 11-12) attachable to a select one of the at least one base member, the elongated support member extending substantially vertically and upwardly from the at least one base member to a predetermined height, the elongated support member including a receiving portion (the portion of 20 that receives the flag) extending substantially vertically along a length thereof, and a flag (25) having indicia printed thereon and including an edge portion that engages the receiving portion of the elongated support member. Orlando does not disclose making the edge portion of the flag positionable within the receiving portion. Keats shows in figures 1-5 a flag that includes an elongated support member (10) that includes a receiving portion (12) and a flag (16) that includes an edge portion (14) which is received within the receiving portion in a substantially vertical direction. The bottom surface of the receiving portion is considered to be the surface of the receiving portion which the edge portion engages to

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stop the edge portion from sliding down any further, i.e. the bottom of the slot. In view of the teachings of Keats it would have been obvious to one in the art to modify Orlando by providing the edge portion of the flag positionable within the receiving portion since this would allow the flag to be attached to and removed from the elongated support in a faster and easier manner and would attach the flag to the elongated support in a more secure manner. In regard to claim 2, Orlando discloses that the fastening means (14) is a magnet. In regard to claim 5, Keats shows in figures 1-5 that the flag extends outwardly and away from the support member when the edge portion is disposed within the receiving portion.

***Allowable Subject Matter***

Claims 3,9, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on M-F 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BRIAN K. GREEN  
PRIMARY EXAMINER

Bkg  
March 18, 2005